

1 **WAGANAKSING ODAWA STATUTE**

2 **Gaming Enterprise Board**

3
4 **SECTION I. REPEALS AND REPLACES**

5
6 This Statute repeals and replaces Waganakising Odawak Statue (WOS) 2010-021
7 Gaming Delegation and Authority Statute and any previous Statues including WOS 2009-012,
8 WOS 2001-12, as amended by WOS 2000-02
9

10 **SECTION II. PURPOSE**

11
12 This Statute establishes and creates the Gaming Enterprise Board with the purpose of
13 providing for monitoring, oversight, and direction regarding the management of the Odawa
14 Casino Resort to serve the best interests of the Tribe. The Gaming Enterprise Board is charged
15 with maximizing both the Revenues and associated EBITDA of the Odawa Casino Resort while
16 also maximizing employment opportunities for Tribal Citizens while respecting Tribal traditions,
17 values and culture. The Gaming Enterprise Board shall consist of persons with business and
18 gaming experience, including both Tribal Citizens and others. The Board is intended to
19 minimize the potential for political interference with business decision-making.
20

21 The Gaming Enterprise Board is charged with the development of policies and
22 procedures for the orderly and efficient operation of the Tribe's Gaming Enterprises, to provide
23 for management oversight of its operations in accordance with *Article VII D (24) delegation of*
24 *management responsibilities* and to provide distributions of profits to the Tribal Government.
25

26 **SECTION III. DEFINITIONS**

- 27
28 **A.** "Annual Enterprise Business Plan" means the twelve-month marketing, financial and
29 operations plan written for the gaming operation and related ancillary businesses including short-
30 term and long-term strategies of the Odawa Casino Resort by department.
31
32 **B.** "Annual Capital Asset Plan" means the planned capital asset purchases for the fiscal
33 year. "Fiscal Year" means the twelve month period from January through December.
34
35 **C.** "Gaming Enterprises" means the Odawa Casino Resort, ancillary enterprises, activities
36 and any other Tribally owned enterprises or businesses related to gaming.

Commented [MCG1]: Purpose of this new Statute/Intent?
What does maximizing economic efficiency mean? Typically
efficiencies are often cost-cutting while Revenue generation and
the creation of tribal citizen jobs are the two variables that the
Tribe may decide which is the most important to it. Trying to
balance both goals. With increased competition and resultant
declining market share, the Tribe may feel that maximization of
revenue and resultant throughput is most important which
provides the most impact for all Tribal Citizens via hiring the most
experienced and qualified person for the position. It may be more
important than hiring a native that meets the minimum standards?
On the other hand some Tribes feel that it is more important to
maximize the hiring of Natives, particularly for management
positions and they are willing to provide on-the-job training
provided the importance of developing the tribal economy and
supporting the families dependent on these jobs. I.e. children
whom have Tribal parents working in management jobs in the
casino may be more apt to attend studies beyond High School
which has a multiplier impact on the reservation for several
generations.

- 1
2 **D.** “*Chief Financial Officer*” or “*CFO*” means the person employed by the Gaming
3 Enterprises who reports to the Board to oversee the issuance of financial information related to
4 the Gaming Enterprises.
5
6 **E.** “*EBITA*” means Earnings Before Interest, Taxes, Depreciation and Amortization.
7
8 **F.** “*Gaming Enterprise Board Member*” means a person seated on the Gaming Enterprise
9 Board.
10
11 **G.** “*Gaming*” means any game classified as “Class II” or “Class III” under the Indian
12 Gaming Regulatory Act of October 17, 1988 and or future amendments.
13
14 **H.** “*Gaming Enterprise*” or “*Enterprise*” means all business operations directly related to
15 the conduct of the Enterprises.
16
17 **I.** “*General Manager*” means the person hired under the direction of the Gaming Enterprise
18 Board, to manage and oversee the day-to-day operations of the Gaming Enterprises.
19
20 **J.** “*Independent Auditor*” means the person or entity required under the LTBB Gaming
21 Regulatory Statute, as amended.
22
23 **K.** “*LTBB*” means Little Traverse Bay Bands of Odawa Indians.
24
25 **L.** “*Annual Strategic Plan*” means the analysis and strategies the Gaming Enterprise
26 intends to implement by department in order to meet its financial and operating goals and
27 objectives.
28
29 **M.** “*Tribal Council*” means the Legislative Branch of the Little Traverse Bay Bands of
30 Odawa Indians.
31

32 **SECTION IV. CREATING THE GAMING ENTERPRISE BOARD**

33
34 The Gaming Enterprise Board is hereby created and Tribal Council delegates and
35 authorizes its duties and authority as set forth in this Statute.
36

Commented [MCG2]: The General Manager is the one “employee” reporting to the Gaming Enterprise Board who receives direction from the Board as well as their annual review. The CFO would report to the G.M and as such should not be approving the G.M’s expense and travel reports. (These should only be approved by the Gaming Enterprise Board)
I believe the General Manager oversees (be in charge/control of) the financial affairs of the Gaming Enterprise and the CFO as a member of the Executive Management Team, assists in formulating the financial plan and oversees the preparation and reporting of the financials. The CFO and GM work together in this aspect, however the G.M is the person who develops the financial strategies with his/her Executive team.

1 **SECTION V. TRIBAL COUNCIL MANAGEMENT DELEGATION**

2
3 In accordance with the Tribal Constitution, Tribal Council will provide by statute for the
4 management of any and all economic affairs and will delegate management responsibilities to a
5 subordinate Tribal entity. Tribal Council delegates the management of the Gaming Enterprise to
6 the Gaming Enterprise Board and Tribal Council shall hold the Gaming Enterprise Board
7 accountable for the responsibilities as set forth in this Statute.
8

9 **SECTION VI. COMPOSITION, REQUIRED QUALIFICATIONS, TRANSITION**
10 **& AUTHORITY, APPOINTMENT AND TERMS**

11
12 **A. COMPOSITION**

13 Tribal Council provides by this statute the management of the Gaming Enterprise,
14 in accordance with the Tribal Constitution by creating a Gaming Enterprise Board that
15 shall consist of five (5) members who meet the eligibility requirements set out in
16 subsection (B) of this section. Board members may be LTBB Tribal Citizens or non-tribal
17 Citizens, provided, however, that a majority of the voting members of the Gaming
18 Enterprise Board shall be LTBB Tribal Citizens.
19

20 1. The Gaming Enterprise Board shall have three officers including a Chairperson,
21 Vice-Chairperson, and Secretary/Treasurer that are elected and approved by the Gaming
22 Enterprise Board. Election of Officers shall be held annually.
23

24 **B. REQUIRED QUALIFICATIONS**

25 To serve on the Gaming Enterprise Board a person must possess the following
26 minimum qualifications and must be licensed under the Tribe's Gaming Regulatory
27 Ordinance.
28

29 1. Possesses an Associate or Bachelor's Degree in Business Administration,
30 Finance, or Hospitality; or in a related discipline.
31

32 2. Have either:

- 33 a) A minimum of three (3) years successful work experience in a senior
34 management position in the field of business administration, public
35 administration, hotel management, accounting, finance or law,

Commented [MCG3]: If you only have three sitting then two have to be Tribal Members. This avoids having two non-tribal members controlling the vote.

Commented [MCG4]: Different Titles than the Tribal Council Committees since this entity manages a Business Enterprise

Commented [MCG5]: Added Senior so that it eliminates someone working in a small family business qualifying under the four year requirement

preferably with specialized knowledge and expertise relevant to the gaming industry; or a minimum of six (6) years of gaming work experience.

Commented [MCG6]: These are the minimum qualifications. Persons whom are very experienced in business and who have an understanding and experience managing business operations and/or finance and marketing associated with revenue growth (marketing initiatives) are preferred as well as those in technology and construction management for future expansion and/or renovation of PP&E. Many Tribes support those appointed, by additional training such as attending NIGA and G2E with the Casino G.M and his/her staff in tow. Does someone working as a supervisor at McDonald's for four years qualify?

3. Possess leadership qualities; shows good judgment; has an understanding of Tribal culture and values; and is approachable and team oriented.

4. No person can serve on the Gaming Enterprise Board who is an elected official of LTBB, except in the case of implementing the section on *Transition of Authority*.

5. No person can serve on the Gaming Enterprise Board who is employed by any Gaming Enterprise of LTBB.

6. No person shall serve as a Gaming Enterprise Board member, who is within seven (7) years of completion of a sentence or probation upon being convicted of a felony in Tribal, State, or Federal Court, unless such conviction has been vacated or overturned.

7. No person shall serve as a Gaming Enterprise Board member who is on a Security Ban from the Gaming Enterprise or who has been banned in the last two (2) years.

C. TRANSITION OF AUTHORITY

The Gaming Enterprise Board shall be established with the members of the Gaming Authority Committee. The Gaming Authority Committee members shall continue to serve on the Gaming Enterprise Board until replaced by the newly serving Gaming Enterprise Board members, provided that the Gaming Authority Committee still hold their seats on Tribal Council. All vacant seats will be filled first, before any seats of the Gaming Authority Committee members are replaced. Gaming Authority Committee member's seats will be filled prior to the Gaming Authority Committee Chair's seat, if at all possible. The Legislative Branch staff shall continue to provide services to the Gaming Enterprise Board for a 120 day period after enactment of this statute.

1 **D. APPOINTMENT AND TERMS**

2
3 1. Gaming Enterprise Board members, who meet the qualifications, shall be approved
4 by a majority vote of Tribal Council. In order to remove a Gaming Enterprise Board
5 Member, it requires an affirmative vote of at least seven (7) Tribal Councilors.
6

7 2. Three (3) persons of the Gaming Enterprise Board shall serve for a three (3) year
8 term. Two persons of the Gaming Enterprise Board shall be appointed to serve for a two
9 (2) year term. Each term thereafter, the terms will be three (3) years. If there is a vacancy
10 in a term, a person shall serve the remainder of the term.
11

12 3. Any Gaming Enterprise Board member may resign from office at any time, such
13 resignation to be made in writing and shall take effect immediately without acceptance.
14

15 4. The Gaming Enterprise Board may recommend removal for cause by a super-
16 majority vote of the Gaming Enterprise Board excluding the Gaming Board Member in
17 question using the following criteria:
18

- 19 i. Intentional act or failure to act resulting in material harm to the
20 organization
21
22 ii. Found liable of discrimination based on protected classes or of sexual
23 harassment
24
25 iii. Incompetency
26
27 iv. Violation of the Constitutionally Mandate Rules of Conduct or other
28 Ethical violations
29
30 v. Neglect of duties.
31
32 vi. Violations of Tribal law.
33
34 vii. Violations of Gaming Enterprise Board Policy.
35

1 Failure to attend Gaming Enterprise Board meetings within a consecutive three (3) month
2 period.
3

4 **SECTION VII. POWERS, DUTIES AND FUNCTION**

5

6 **A. POWERS**

7 The Gaming Enterprise Board shall have the following powers in connection with
8 the Enterprise:
9

- 10 **1.** To employ a General Manager, including interviews, selection, hiring and
11 contract negotiations. Additionally the Board may negotiate annual compensation,
12 criteria for annual reviews, and potential bonus.
13
- 14 **2.** Approves any reimbursement of the General Manager's travel, cell phone or other
15 monthly expenses by completion of an authorized form and signed off by the Chair of the
16 Gaming Enterprise Board.
17
- 18 **3.** Present an annual budget for the Gaming Enterprise Board to Tribal Council for
19 approval that may include funding for such items as: stipends or annual salaries; training,
20 and travel expenses; staff and consultants; office space and equipment, and other
21 expenses necessary to carry out the duties and responsibilities of the Gaming Enterprise
22 Board. The Gaming Enterprise shall reimburse the Tribal Government for any expenses
23 incurred by the Board.
24
- 25 **4.** To employ staff to carry out Gaming Enterprise Board functions, if funding is
26 available.
27
- 28 **5.** To employ or retain legal counsel and other consultants to advise the Gaming
29 Enterprise Board, if funding is available.
30
- 31 **6.** To approve the following:
32
 - 33 **i.** Annual Enterprise Business Plan
 - 34 **ii.** Anticipated annual financial distribution to the LTBB Government.
 - 35 **iii.** Annual Capital Asset Plan

- iv. Annual Strategic plan
- v. Any loan or banking documents.
- vi. Human Resources policies

B. DUTIES AND FUNCTIONS

1. The Gaming Enterprise Board shall review, evaluate and may terminate the General Manager.
2. The Gaming Enterprise Board shall monitor compliance of the approved policy and procedures through the General Manager.
3. The Gaming Enterprise Board shall adopt meeting policies and any other policies for Gaming Enterprise Board business, provided such policies are in accordance with this Statute and approved by the Gaming Enterprise Board.
4. The Gaming Enterprise Board shall adhere to the Constitutionally Mandated Rules of Conduct for Officials of Tribal Government that are approved by Tribal Council and any other subsequent rules, as may apply.
5. The Gaming Enterprise Board shall adhere to the Tribal Minimal Internal Control Standards (TMICS) and all other applicable Statutes and laws.
6. The Gaming Enterprise Board shall adhere to all Policies and Procedures approved by the Tribal Council.

The Gaming Enterprise Board shall not be involved in the day-to-day decision making process of the Gaming Enterprises and its operations.

SECTION VIII. FINANCING, BANK ACCOUNTS AND BUDGETS

- A. The Gaming Enterprise Board is not authorized to incur any financial obligation or liability, other than what is in the Gaming Enterprise Board's approved budget, without prior Tribal Council approval.

1
2 **B.** The Gaming Enterprise Board shall have the authority to establish and maintain bank
3 accounts as may be necessary for the operations of the Enterprises
4 **C.** The CFO shall oversee and manage the accounting, finance, cage, count credit and cash
5 management of the Enterprises, and other directors and managers as appropriate
6 **D.** The CFO shall report directly to the General Manager, and shall provide a monthly report
7 of all Gaming Enterprises financial records. In turn the General Manager shall provide the report
8 to the Gaming Enterprise Board, Tribal Council, Tribal Chairperson, Director of Treasury and
9 Tribal Government CFO. Any questions regarding the report shall be directed to the Gaming
10 Enterprise Board.
11

12 **SECTION IX. REPORTING REQUIREMENTS & COMMUNICATION PLAN**

13

14 The Gaming Enterprise Board shall be responsible for maintaining regular reporting
15 and accountability to both the Tribal Council and the Tribal Citizens through the development of
16 appropriate financial reporting and other communication policy and procedures, as approved by
17 Tribal Council.
18

19 **A.** The Gaming Enterprise Board shall present to Tribal Council, a monthly report which
20 shall contain the actual, projected and forecasted revenues, expenses and earnings before
21 Interest Taxes, Depreciation and Amortization (EBITA) for the preceding month (actuals),
22 current month (projection) and not less than three (3) months in advance (forecast) based on
23 Annual Enterprise Business Plan. This report shall also include; the number of employees,
24 number of Tribal Citizens, other Natives and non-Natives employed, and turn-over-rate, number
25 of Tribal Citizens in management positions, Native or non-Native employed in management
26 positions and requests new development and/or capital projects and all other relevant
27 information.
28

29 **B.** , The monthly presentation may be via conference/video call or in-person with the Tribal
30 Council at least on a monthly basis.
31

32 **C.** The Tribal Council shall appoint an independent auditor to conduct the annual financial
33 statement audit and minimum internal control testing required by 25 C.D.R. §§ 52204 and
34 571.12 and any other applicable or successor Federal regulations. The Gaming Enterprise Board,

1 Tribal Council, Tribal Chairperson, Treasury Director and Tribal Government CFO shall have a
2 right to receive a Copy of the annual audit,
3

4 **D.** Gaming Enterprise Board records shall be open to Tribal Citizens upon request in
5 accordance with Tribal law, except in matters of confidentiality as defined by Tribal Statute.
6

7 **E.** Gaming Enterprise Board Annual Report. By March 31st of each year, the Tribal
8 Enterprise Board shall prepare and deliver to Tribal Council an annual report and an audited
9 financial statement, including a statement of cash flows, balance sheet and an income statement,
10 including comparative figures from the preceding fiscal year.
11

12 **SECTION X. MEETINGS**

13
14 **A.** The Gaming Enterprise Board shall meet in person at least once per month, and the
15 agenda shall include a time for public comment. Such meeting will be held within the LTBB
16 reservation and open to Tribal Citizens.
17

18 **B.** Closed Sessions may be held only for the purposes of personnel, litigation, confidential
19 business or legal matters; or matters that rise to the level of significant privacy or confidentiality.
20 Tribal Councilors may attend closed session as observers only
21

22 **C.** A public comment period will be open only to Tribal Citizens, Tribal Councilors and
23 Tribal Chairperson.
24

25 **D.** Notice of meetings or work-sessions shall be posted forty-eight (48) hours in advance.
26

27 **E.** Gaming Enterprise Board business that requires immediate attention may be conducted
28 by telephone conference call. Any action taken on such a call shall be recorded in the minutes of
29 the next regularly scheduled meeting. The Gaming Enterprise Board secretary or designee shall
30 attempt to notify each of the Gaming Enterprise Board Members of the conference call by any
31 practical means including telephone, fax, email, text or in person and must certify that an attempt
32 was made of contact each Gaming Enterprise Board member.
33

34 **F.** Emergency meetings may only be called when immediate action is necessary for the
35 preservation or promotion of essential interests of the Tribe and Enterprises. The emergency

Commented [MCG7]: Available in time for Annual Community Meeting, OCR has put together quarterly financial reports in the past as part of the bond indenture, so there should not be an issue with OCR providing some financials to the Board for their annual report.

Commented [MCG8]: This protects the GEB by accounting for all their spending as well as promotes the integrity of the financial statements.

1 action taken must be ratified at the next regular meeting of the Authority, and the minutes must
2 state the reason such emergency action was necessary.

3
4 **G.** A quorum for a Gaming Enterprise Board meeting shall consist of any three (3) voting
5 members of the Gaming Enterprise Board. A meeting may not be called to order without a
6 quorum present and no official business shall be conducted without a quorum.

7
8 **H.** All non-financial related work-sessions shall remain open and shall not include a closed
9 session.

Commented [MCG9]: Often financial related meetings are closed to protect the proprietary information presented, trade secrets of the operation, marketing etc.

10 11 **SECTION XI. COMPENSATION**

12
13 The Gaming Enterprise Board shall be compensated, subject to the availability of funds,
14 as follows:

15
16 A. \$200.00 meeting stipend, with a maximum monthly amount of \$400.00 a month,
17 which shall include per diem and travel. Expenses for travel for training and
18 conferences shall include per diem and reimbursement of expenses in accordance
19 with the Tribal Council approved Travel policies.

20
21
22 B. Pay for the Gaming Authority Committee members that are seated on the Gaming
23 Enterprise Board shall be paid according to the Constitutionally Mandated
24 Compensation Statute.

25 26 27 **SECTION XII. NEPOTISM**

28
29 **A.** For Purposes of this Statute, two (2) or more members of the same immediate family
30 shall not serve on the Gaming Enterprise Board at the same time. Further, a person shall not
31 serve on the Gaming Enterprise Board if the General Manager, Director of Finance, Internal
32 Auditor, Tribal Chairperson or Vice-Chairperson, on a Tribal Councilor is an immediate family
33 member, For purposes of this section immediate family means husband, wife, son, daughter,
34 step-son, step-daughter, father, step-father, father-in-law, mother, step-mother, mother-in-law,
35 brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, child, step-child or person

1 whose relationship with the Gaming Enterprise Board is similar to that of person who are related
2 by blood or marriage.

3
4 **B.** No Gaming Enterprise Board member may participate in making any decision that
5 involves a personal or financial interest of the Gaming Enterprise Board or a member of his or
6 her immediate family, unless interest is held in common with the Tribe and its Citizens.

7
8 **SECTION XIII. GAMING PROHIBITION**

9
10 No Member of the Gaming Enterprise Board shall be allowed to participate in any
11 gaming activity operated by LTBB.

12
13 **SECTION XIV. SAVING CLAUSE**

14
15 In the event that any phrase, provision, part, paragraph, subsection, or section of this
16 Statute is found by a court of competent jurisdiction to violate the Constitution, laws or
17 ordinances of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part
18 paragraph, subsection or section shall be considered to stand alone and to be deleted from this
19 statute, the entirety of the balance of the statute to remain in full and binding force and effect.
20